IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 6117 of 2004

Between:

1 Bharateeya Mint Mazdoor Sangh, Regd. No. B-1519,
1-8-565/5, RTC X Roads, Hyderabad - 500 020.

Rep. by its General Secretary D. Dashavarnam
S/o. Sri D. Brahmaiah aged 44 years,

R/o. Plot No. B-22, JJ Nagar Colony, Naredmet X Roads, Secunderbad.
2 Tanksal Karmika Sangh, Regd. No. 3419
India Government Mint, Hyderabad.

Rep. by its General Secretary N.R. Deepakdass
S/o. Late Sri N. Ramdass, Aged 44 Years, R/o. Hyderabad.

..... PETITIONERS

AND

1 Union of India, rep. by its Secretary,
Ministry of Finance,

Department of Economic Affairs, Coins and Currency,
North Block, New Delhi - 110 001
2 India Government Mint, Charlapalli, Hyderabad.
Rep. by its General Manager

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ (i) declaring the action of the respondents in not acting in accordance with the agreement entered into in the meeting dated 15-4-1998 as illegal and arbitrary (ii) declare the impugned notice No.I-243/2004 as illegal, arbitrary and contrary to minutes of meeting dated 15-4-1998 and (iii) consequently

set aside the impugned notice No. I-243/2004/5488 dated 15-3-2004 and direct the respondents not to change the hours of employment of the petitioners till 19% compensation as agreed is extended to the workmen and other order or orders in the interest of justice.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY

(SC FOR Central Govt.)

The Court made the following:

ORDER:

This writ petition has been filed questioning the impugned Notice No.I-243/2004/5488, dated 15-03-2004 of the second respondent proposing to change the timings of the employees working in India Government Mint in violation of the Rules and Law, which reads as follows:

> "In view of the drastic reduction in the demand of coins projected by Reserve Bank of India, it has been decided to change the Overtime Working hours from the present level of 54 hours to that of 48 hours per week (i.e., 44 hours per week as Normal Working Hours with 4 hours single rate overtime) with effect from 1st April 2004.
>
> Consequent to the above change in overtime working from 54 hrs to 48 hrs per week, all the employees of India Government Mint, Saifabad, Hyderabad and Cherlapally, R.R. District are, hereby informed that the working hours of both the Mints at Saifabad and Cherlapally are accordingly revised as under, with effect from 01-04-2004.
>
> ....."

It is stated that questioning the similar action of the respondents in changing overtime working hours, a writ petition was filed in the High Court of Calcutta in W.P.No.10172 of 2004. The High Court of Calcutta after considering the matter elaborately with regard to the maintainability of the writ petition, admitted the writ petition and granted interim direction, and the said interim direction is still subsisting.

A counter has been filed by the second respondent stating that it was agreed in the

meeting held on 15-04-1998 for sanction of maximum overtime working hours up to 54 hours per week, but the same will be subject to review and revision after consultation with the Unions and Associations by the General Manager of each Unit. In the instant case also, the Unions were consulted and as they did not accept for the said proposal, the Management was forced to change the maximum overtime working hours in view of the administrative exigencies.

The learned counsel for the respondents further stated that out of four Unions working in the second respondent, two Unions have already approached the Conciliation Officer-cum-Assistant Labour Commissioner (C), Hyderabad. With regard to the strike notice dated 15-03-2004 issued by the petitioners, vide proceedings No.8/5/2004-E3 dated 17-03-2004 the Labour Commissioner informed the respondents that since the instant dispute is in conciliation, both the parties are requested to ensure that Section 33 of the Industrial Disputes Act (for short 'the Act') is not violated during the pendency of conciliation.

The learned counsel for the petitioners submits that as the matter was seized by the Conciliation Officer under Section 33 of the Act, there cannot be any change of the service conditions and therefore, the petitioners are entitled to work for the overtime without in reference to the said notice as they have been continuously working and in view of the fact that the said notice has not been implemented so far. It is not in dispute that all the employees of the second respondent are working for over time and the said reduced overtime of 48 hours has not been implemented.

The learned counsel for the respondents submits that as the conciliation proceedings are pending before the Conciliation Officer, it is just and proper to keep the writ proceedings on the file of this Court as well as before the Conciliation Officer. If the Conciliation Officer arrives amicable settlement, it will be implemented and if he fails to settle the matter amicably, he has to file a report before the appropriate Government and it is for the appropriate Government to send the matter for reference of the dispute before the Industrial Tribunal or the Labour Court, as the case may be, and therefore, the Writ Petition itself may be disposed of.

As the petitioners are willing to work without double payment, the *status quo* obtaining as on today shall be maintained pending disposal of the conciliation proceedings. The Conciliation Officer shall complete the conciliation proceedings as expeditiously as possible.

The Writ Petition is accordingly disposed of. No costs.

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V. ESVARAIAH, J

27th August, 2004

Isn/Stp

To

1 The Secretary, Union of India,
Ministry of Finance,

Department of Economic Affairs, Coins and Currency,
North Block, New Delhi - 110 001

2 The General Manager, India Government Mint,

Charlapalli, Hyderabad.

3. Two CD copies.